

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA, )  
                                )  
                                )  
v.                            )  
                                ) Case No. 18-CR-30001-MGM  
DAPHNE MOORE,              )  
                                )  
Defendant.                  )

DEFENDANT DAPHNE MOORE'S MOTION  
FOR SUBSTITUTION OF COUNSEL

Defendant Daphne Moore respectfully moves the Court for an order allowing her present counsel, Linda J. Thompson, Esq., to withdraw as counsel and assigning Paul Rudof, Esq. as her counsel, and states in support:

1. Defendant Moore is currently represented by Linda J. Thompson, Esq., of Thompson & Thompson, P.C., Springfield, MA 01103. Ms. Moore privately retained Attorney Thompson in January, 2018 when Ms. Moore's daughter, Nia Dinzey, and son-in-law Denelson Dinzey, were indicted and arrested by federal authorities. Attorney Thompson has represented Ms. Moore continuously since then. In December 2018 Ms. Moore was indicted as a co-defendant in a superseding indictment in the same

proceeding.

3. At the time Ms. Moore privately retained Attorney Thompson, her law firm Thompson & Thompson, P.C., had an office in downtown Springfield at 1331 Main Street, where she and her partner John M. Thompson, Esq. had been in full time practice doing criminal defense since 2000. The firm was fully staffed for handling criminal trials and appeals.

4. From the December 21, 2018 arraignment Ms. Moore's defense pursued a speedy trial. Consistent with Defendant Moore's speedy trial demand, on January 14, 2019 the Court set June 10, 2019 as the trial date. To insure that no defense-related reason to delay the trial arose, from January to June, 2019, Attorney Linda Thompson worked full time on preparing Ms. Moore's case. But on June 6, 2019, this Court continued the trial "without day" because the government filed an interlocutory notice of appeal that day. At that point, Ms. Moore and counsel were fully prepared for the trial that was to commence June 10, 2019.

5. The government's interlocutory appeal created an unforeseeable delay of nearly three years. One consequence was the depletion of her

financial resources.

6. On January 15, 2019 Ms. Moore had been suspended without pay for the duration of the federal criminal proceeding. Ms. Moore's immediate employer, Hampden County Superior Court Clerk Laura Gentile, attempted first to suspend her with pay; and second to retain her in a desk position involving no public interaction. She was countermaned by the EOTC each time.

Understanding that this unpaid suspension would impair her ability to defend the federal charges against her, defense counsel represented Ms. Moore in these administrative proceedings and then challenged her unpaid suspension in state court. See, *Moore v. Executive Office of the Trial Court*, 487 Mass 839 (2021). This pro bono work was unsuccessful, and Ms. Moore's financial resources were exhausted early in the interlocutory appeal process. At her request, Attorney Linda Thompson was appointed to represent her in this Court and the Court of Appeals under the Criminal Justice Act early in 2020.

7. In March 2020, Thompson & Thompson closed their downtown Springfield office and the attorneys began preparing to retire. They set up

a home office in September 2020 and reduced their staff to one part-time person. They began reducing their caseloads and are shifting to legal work that does not involve representing clients. After the First Circuit reversed this Court's suppression order in May 2022, they and Ms. Moore entered into a representation agreement with the ACLU to pursue a petition for a writ of certiorari in the United States Supreme Court.

8. Recent developments have made it clear to Attorney Linda Thompson that her office no longer possesses the resources to support her in trial, and she no longer has the ability to try Ms. Moore's case. She is now 77 years old and has not tried a case since February 2016. The impact of inactivity and aging on her trial skills cannot be ignored.

Shortly after the government interjected its interlocutory appeal in June 2019, Attorney Thompson suffered a serious medical episode and was hospitalized. That episode was physically disabling and significantly impaired her ability to do courtroom work as lead counsel. She has since withdrawn from all the pending cases in which she was lead trial counsel; successor counsel has been retained or appointed in each. Gradually, she has limited her law work to appeals and motion litigation. She has not

taken on new trial work. Attorney Thompson continued as counsel for Ms. Moore to continue defending the suppression order, and in hopes of concluding the case without trial.

In her own assessment, Attorney Thompson now lacks the vigor, stamina and focus that is absolutely essential to her way of defending trials, and particularly to the defense of Ms. Moore's felony case. She believes that it would be both unprofessional and unfair to remain as trial counsel for Ms. Moore under these circumstances.

9. Ms. Moore requests that the Court appoint Paul Rudof, Esq., of Elkins, Auer, Rudof & Schiff, of Northampton, MA. Attorney Rudof is an outstanding member of the CJA Panel in the Western Division, and a partner in a first-rate trial firm. Defendant Moore has consulted with him and with her present counsel. She has known him in her professional capacity for years and has first hand knowledge of his trial skills. Attorney Rudof has agreed to accept this Court's appointment as Ms. Moore's trial counsel, provided he is afforded adequate time to prepare for that undertaking. The government's case involves extensive documentation and the trial is estimated to take two weeks or more to try. The parties

jointly moved for a stay of trial pending disposition of this certiorari petition on October 19, 2022.

10. For the foregoing reasons, Attorney Linda J. Thompson respectfully requests leave of the Court to withdraw as Ms. Moore's appointed counsel. Defendant Daphne Moore respectfully requests that the Court assign Paul Rudof, Esq. as her trial counsel and reschedule her trial to a date sufficiently in the future to enable him to prepare to effectively defend her.

Respectfully submitted,  
DAPHNE MOORE, Defendant

*/s/ Linda J. Thompson*  
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Certificate of Service

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

October 24, 2022

*/s/ Linda J. Thompson*  
Linda J. Thompson